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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

REBECCA ANN LAFONTAINE,

Defendant and Appellant.

2d Crim. No. B237400
(Super. Ct. No. 2010038615)
(Ventura County)

Rebecca Ann Lafontaine appeals a November 16, 2011 order revoking and reinstating probation subject to the condition that she serve 120 days county jail. The trial court awarded 58 days actual credit and 28 days conduct credit. (Pen. Code, §§ 2900.5; 4019.)¹ Appellant claims that she is entitled to an additional 28 days conduct credit based on a 2011 amendment of section 4019 (AB 109) providing that certain defendants may earn one-for-one conduct credits for crimes committed after October 1, 2011. (Stats 2011, c. 15, § 482 (AB 109), operative October 1, 2011.) We affirm.

On April 26, 2011 appellant pled guilty to possession of methamphetamine (Health & Saf. Code, § 11377, subd. (a)) and was granted Proposition 36 drug treatment probation (§ 1210.1) which she violated on September 20, 2011. Between September 28, 2010 and October 1, 2011, former section 4019 provided that appellant could earn conduct credits at the rate of two days for every four days of actual time served in

¹ All statutory references are to the Penal Code unless otherwise stated.

presentence custody. (Stats. 2010, c. 426, § 2; see *People v. Brown* (2012) 54 Cal.4th 314, 318 & fn. 3.)

Prospective Application of AB 109

Effective October 1, 2012, section 4019 was amended to provide one-for-one presentence conduct credits for crimes committed on or after October 1, 2011. (Stats 2011, c. 15, § 482 (AB 109).) Section 4019, subdivision (h) states in pertinent part: "The changes to this section enacted by the act that added this subdivision shall apply prospectively and shall apply to prisoners who are confined to county jail . . . for a crime committed on or after October 1, 2011. Any days earned by a prisoner prior to October 1, 2011, shall be calculated at the rate required by the prior law."

Appellant argues, under equal protection principles, that she is entitled to an additional 28 days conduct credit (enhanced one-for-one conduct credits) even though she committed the drug offense and violated probation before October 1, 2011, the operative date of AB 109. A similar argument was rejected by our Supreme Court with respect to a superseded version of section 4019 providing for one-for-one presentence conduct credits from January 25, 2010 to September 20, 2011. (Stats 2009-2010, 3d Ex.Sess., c. 28, § 50; *People v. Brown* (2012) 54 Cal.4th 314, 328-320; *People v. Lara* (2012) 54 Cal.4th 896, 906, fn. 9.) The court held that the equal protection clauses of the federal and state Constitutions (U.S. Const., 14th Amend; Cal. Const., art. 1, § 7, subd. (a)) did not require that the superseded version of section 4019 for enhanced conduct credits be applied retroactively.

The same principle applies to AB 109 which is prospective in application. (See *People v. Ellis* (2012) 207 Cal.App.4th 1546, 1551-1552.) Appellant committed the underlying crime and violated probation before its operative date. " '[T]he Fourteenth Amendment does not forbid statutes and statutory changes to have a beginning, and thus to discriminate between the rights of an earlier and later time.' [Citation.]" (*People v. Floyd* (2003) 31 Cal.4th 179, 191.) Under the doctrine of stare decisis, *People v. Brown*, *supra*, and *People v. Lara*, *supra*, control and are dispositive. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.)

The judgment is affirmed.
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YEGAN, J.

We concur:

GILBERT, P.J.

PERREN, J.

Bruce A. Young, Judge
Superior Court County of Ventura

Stephen P. Lipson, Public Defender, Michael McMahon, Chief Deputy, for
Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant
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